

FITZPATRICK, SPINI & SWANSTON

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November 7, 2013

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Certified Mail

State of California
Labor & Workforce Development Agency

Labor and Workforce Development Agency
800 Capitol Mall, #5000
Sacramento, CA 95814

Foothill Packing, Inc.
1582 Moffett Street, Suite G
Salinas, CA 93905

Robert G. Erickson
*Agent for Service of Process for Foothill
Packing, Inc.*
1582 Moffett Street, Suite G
Salinas, CA 93905

Juan Sendejas
Supervisor for Foothill Packing, Inc.
1582 Moffett Street, Suite G
Salinas, CA 93905

RE: Notice of Labor Law Violations
California Labor Code §§2699, 2699.3, 2699.5
Aggrieved Employee: Isidro Perez Silva
Our File No.: S0042-600

Dear Employer, Juan Sendejas and Representatives of the Labor and Work Force Development Agency:

Pursuant to California Labor Code §§2699, 2699.3, 2699.5 aggrieved employee, Isidro Perez Silva, on behalf of himself and as representative on behalf of all current and former employees (hereinafter be collectively referred to as "the employees") of Foothill Packing, Inc. (the "employer"), hereby notifies you of the labor law violations and facts and circumstances giving rise to them, committed by the employer and by individual Juan Sendejas ("the culpable individual"), who was employed by or performed services in some other capacity for the employer in supervisory and managerial positions with authority over the employees, and all who actively initiated, participated in and/or created the conditions that constitute the violations described herein and thereby contributed to and are in part responsible for such violations.

The employer and the culpable individual subjected the employees to numerous violations based on, among others, the following facts, circumstances and laws:

1. Required them to work more than 10 hours in a day and more than 40 hours in a week without paying premium overtime wages for such overtime hours; required them to work seven consecutive days without paying premium overtime wages

for the first eight hours worked on the seventh day and double-time for hours worked in excess of eight on the seventh day;

2. Failed to pay minimum wage for all hours worked;
3. Failed to pay agreed wages for all hours worked;
4. Failed to pay wages in a timely manner;
5. Failed to pay employees who were discharged or who resigned all wages owed within the time required by Labor Code §§ 201 and 202;
6. On repeated occasions, knowingly and willingly failed to provide the employees with an itemized statement in writing accurately setting forth all of the information required under Labor Code § 226, including but not limited to total hours worked, overtime hours worked, gross wages earned, net wages earned, all applicable rates of pay and the corresponding number of hours worked under each rate, all deductions, split shift and reporting time pay owed, wages owed for missed rest and meal periods;
7. Failed to keep accurate records, including but not limited to time records showing when the employees begin and end each work period, meal period and split shift intervals, the total daily hours worked in each payroll period, the applicable rate of pay and the total wages paid for at least three years at the place of employment or at a central location within the State of California;
8. Repeatedly employed the employees for work days of at least three and one half hours without authorizing and permitting the employees to take paid rest periods of at least 10 minutes net rest time for every four hours work time or major fraction thereof in the middle of each work period, insofar as practicable, and failed and refused to pay the employees one hour of pay at the employees' regular rate of compensation for each work day that one or more rest periods were not provided;
9. Repeatedly employed the employees for work periods of more than five hours per day without providing the employees with first and second meal periods of not less than 30 minutes during which the employees were relieved of all duties, and failed and refused to pay the employees one hour of pay at the employees' regular rate of compensation for each work day that such meal periods were not provided;
10. Failed to post notice of paydays and time and place of payment;
11. Failed to reimburse work-related expenses to the employees;
12. Failed to provide each employee, at the time of hiring, with a written notice, in the language the employer normally uses to communicate employment-related

information to the employee, containing the following information as required by Labor Code § 2810.5:

- a. The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable;
 - b. Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances;
 - c. The regular payday designated by the employer in accordance with the requirements of the Labor Code;
 - d. The name of the employer, including any "doing business as" names used by the employer;
 - e. The physical address of the employer's main office or principal place of business, and a mailing address, if different;
 - f. The telephone number of the employer;
 - g. The name, address, and telephone number of the employer's workers' compensation insurance carrier; and
 - h. Any other information the Labor Commissioner has deemed material and necessary; and
13. Failed to notify the employees in writing of any changes to the information set forth in the aforementioned Labor Code section 2810.5 notice within seven calendar days after the time of the changes.

Isidro Perez Silva worked for employer from approximately on or about May 2010, through the present, and has been subject to these violations repeatedly during such period.

The above described conduct by the employer and the culpable individual violate numerous provisions of the Labor Code, including but not limited to, Labor Code §§ 201, 202, 203, 204, 207, 208, 209, 210, 216, 218, 218.6, 223, 225.5, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, 1199, 2699, 2800, 2802, 2810.5 and the applicable California Industrial Welfare Commission Wage Order. The employees seek wages and penalties from the employer and also from the culpable individual.

Very truly yours,

Charles Swanston

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